

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

VALENTA DUNCAN,

Plaintiff,

v.

COUNTY OF SACRAMENTO,

Defendant.

No. 2:25-cv-0908-TLN-CKD (PS)

FINDINGS AND RECOMMENDATIONS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendants Alameda County Sheriff's Department and County of Sacramento<sup>1</sup> moved to dismiss plaintiff's second amended complaint ("SAC"). Because plaintiff proceeds pro se, this matter is before the undersigned pursuant to Local Rule 302(c)(21). See 28 U.S.C. § 636(b)(1). As set forth below, plaintiff has not opposed the motion to dismiss by Alameda County Sheriff's Department after being specifically cautioned that failure to do so would be deemed as consent to grant the motion to dismiss. Thus, the undersigned recommends plaintiff's claims against Alameda County Sheriff's Department be dismissed pursuant to Federal Rule of Civil Procedure 41(b). As to County of Sacramento's motion, the undersigned recommends the motion to dismiss be denied.

<sup>1</sup> County of Sacramento is also sued as Post Release Community Supervision Department, Adult Community Corrections (ACC) Division, Adult Day Reporting Center (ADRC), Sacramento Adult Probation Division, and Probation Department Adult Day Reporting Center.

**I. Background**

Proceeding without counsel, plaintiff Valenta Duncan filed this action in the Sacramento County Superior Court on September 5, 2023, naming County of Sacramento and Doe defendants. (ECF No. 2 at 4-7.) Plaintiff filed the operative SAC on February 11, 2025. (*Id.* at 30-44).<sup>2</sup> Under the SAC’s allegations, plaintiff was pulled over by the Alameda County Sheriff’s Department in San Leandro, CA, on January 20, 2023, for a missing rear license plate. The deputy informed plaintiff of a no-bail warrant issued by the Sacramento County Adult Probation Division. Plaintiff was never on probation in Sacramento County and explained he was discharged from supervision in Alameda County two years prior. Plaintiff was arrested on the erroneous warrant and taken to jail. Sacramento County officers took custody on January 23, 2023, and transferred him to the Sacramento County Jail. On January 30, 2023 (ten days after arrest), plaintiff met with a public defender who informed him there had been an error and the warrant was dismissed. Plaintiff lost his job and suffered other harm as a result. (*Id.* at 33-36.)

Plaintiff alleges a deprivation of his Fourth Amendment right to be free from unreasonable searches and seizures and references his right to [due] process of law and “right to Post Bail unless denied by Law or Statute where permitted otherwise[.]” (ECF No. 2 at 35.) Plaintiff also asserts a state-law negligence claim. (*Id.* at 36-37.)

Defendant Alameda County Sheriff’s Department removed the case to this court on March 20, 2025. (ECF No. 1.) On March 27, 2025, defendants County of Sacramento and Alameda County Sheriff’s Department separately filed their motions to dismiss. (ECF Nos. 6, 7.) The hearing date for both motions was vacated after plaintiff did not timely file a written opposition or statement of opposition to either motion. (ECF No. 12.) By order filed on April 23, 2025, the court granted plaintiff 21 days to file responses to both motions and cautioned that failure to do so would be construed as non-opposition and consent to granting the motions to dismiss. (*Id.*)

On May 14, 2025, plaintiff filed an opposition to County of Sacramento’s motion to dismiss, alternately requesting leave to amend if the court finds the SAC fails to state a claim

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<sup>2</sup> The court takes judicial notice of the pleadings filed in state court. *See Bias v. Moynihan*, 508 F.3d 1212, 1225 (9th Cir. 2007).

1 under 42 U.S.C. § 1983. (ECF No. 13.) County of Sacramento filed a reply (ECF No. 14.) The  
2 court finds the motion is suitable for decision without oral argument. See Local Rule 230(g).  
3 Plaintiff has not opposed the motion by Alameda County Sheriff's Department.

## 4 **II. Legal Standard for Dismissal Under Rule 12(b)(6)**

5 Dismissal under Rule 12(b)(6) of the Federal Rules of Civil Procedure may be warranted  
6 for "the lack of a cognizable legal theory or the absence of sufficient facts alleged under a  
7 cognizable legal theory." Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990). In  
8 evaluating whether a complaint states a claim on which relief may be granted, the court accepts as  
9 true the allegations in the complaint and construes the allegations in the light most favorable to  
10 the plaintiff. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984); Love v. United States, 915 F.2d  
11 1242, 1245 (9th Cir. 1989). Particularly because plaintiff proceeds pro se, the court liberally  
12 construes the pleadings and affords plaintiff the benefit of any doubt. Bretz v. Kelman, 773 F.2d  
13 1026, 1027 (9th Cir. 1985). Nevertheless, courts are not required to accept as true allegations that  
14 are merely conclusory, unwarranted deductions of fact, or unreasonable inferences. Sprewell v.  
15 Golden State Warriors, 266 F.3d 979, 988 (9th Cir. 2001).

## 16 **III. County of Sacramento's Motion (ECF No. 6)**

17 County of Sacramento asserts the following arguments: (1) plaintiff's claims asserting  
18 violation of his Fourth Amendment rights fail as a matter of law; (2) the court should decline to  
19 exercise supplemental jurisdiction; (3) the County is immune from liability for negligence under  
20 Section 815 of the Government Code; and (4) any County employee would be immune for the  
21 procurement of an arrest warrant pursuant to Section 821.6 of the California Government Code.  
22 (ECF No. 6-1 at 3-8.)

### 23 **A. Monell Claim against County of Sacramento**

24 Section 1983, 42 U.S.C., imposes liability on any "person" who violates an individual's  
25 federal rights while acting under color of state law, which includes municipalities and other local  
26 government units. See Monell v. Dep't of Soc. Servs. of N.Y., 436 U.S. at 689-90 (1978). To  
27 establish liability for governmental entities under Monell, a plaintiff must prove (1) deprivation of  
28 a constitutional right; (2) the municipality had a policy; (3) this policy amounts to deliberate

1 indifference to the plaintiff's constitutional right; and (4) the policy is the moving force behind  
2 the constitutional violation. Dougherty v. City of Covina, 654 F.3d 892, 900 (9th Cir. 2011); see  
3 also Gant v. Cnty. of Los Angeles, 772 F.3d 608, 617 (9th Cir. 2014).

4 County of Sacramento argues, first, plaintiff fails to state an underlying constitutional  
5 violation because he couches his claim as respondent superior liability and states the relevant  
6 conduct was negligence. (ECF No. 6-1 at 4.) While plaintiff claims negligence on the part of  
7 County of Sacramento or its employees, plaintiff also alleges the "outdated customary policies,  
8 procedures and/or practices... allowed their agents, their employees, their representatives and/or  
9 their co-defendant(s)" to violate his civil rights, including his rights under the Fourth Amendment  
10 pertaining to unreasonable seizures. (ECF No. 2 at 34-35, ¶ 10.)

11 County of Sacramento argues, second, the allegations about the county's policies and/or  
12 practices do not suffice to allege a specific policy that amounts to deliberate indifference and was  
13 the moving force behind any violation. (ECF No. 6-1 at 5.) In this circuit, a claim of municipal  
14 liability under section 1983 is sufficient to withstand a motion to dismiss even when based on a  
15 bare allegation that the individual officers' conduct conformed to official policy, custom, or  
16 practice. Lee v. City of Los Angeles, 250 F.3d 668, 682-83 (9th Cir. 2001) (quoting Karim–  
17 Panahi v. Los Angeles Police Dep't, 839 F.2d 621, 624 (9th Cir. 1988)). Plaintiff alleges his name  
18 appeared in an antiquated database as formerly having participated in the Post Release  
19 Community Supervision Program, that County of Sacramento lacked jurisdiction to issue an  
20 arrest warrant, and that County of Sacramento's outdated policies or practices caused the  
21 resulting alleged Fourth Amendment violation. (ECF No. 2 at 34-36, ¶¶ 9, 10, 13.)

22 County of Sacramento does not cite any authorities requiring plaintiff to more specifically  
23 plead his claim. Plaintiff meets the pleading standard with respect to the alleged policy, custom,  
24 or practice because the allegations give defendant fair notice to defend itself effectively, and,  
25 taken as true, plausibly suggest an entitlement to relief. See AE ex rel. Hernandez v. Cnty. of  
26 Tulare, 666 F.3d 631, 637 (9th Cir. 2012).

27 The remaining question is whether plaintiff sufficiently alleges a specific deprivation of  
28 his constitutional rights. To any extent he claims a violation of his Fourteenth Amendment due

1 process rights based on the arrest or the conduct that resulted in the arrest, plaintiff does not  
2 adequately allege an underlying constitutional violation. No substantive due process claim lies  
3 under the Fourteenth Amendment for the arrest itself because the Fourth Amendment applies. See  
4 Albright v. Oliver, 510 U.S. 266, 273 (1994) (“Where a particular Amendment ‘provides an  
5 explicit textual source of constitutional protection’ ..., ‘that Amendment, not the more  
6 generalized notion of ‘substantive due process,’ must be the guide for analyzing these claims.’”) (quoting Graham v. Connor, 490 U.S. 386, 395 (1989)).

8 The loss of liberty caused by an individual’s mistaken incarceration after the lapse of a  
9 certain amount of time can give rise to a due process claim where it was or should have been  
10 known that the individual was entitled to release. See Lee, 250 F.3d at 683; Baker v. McCollan,  
11 443 U.S. 137, 144 (1979) (detention in the face of repeated protests of innocence will after the  
12 lapse of a certain amount of time deprive the accused of liberty without due process of law).  
13 However, the SAC does not plead a due process claim under the Fourteenth Amendment relating  
14 to his continued detention. The alleged policy failure resulting in the erroneous warrant is not  
15 sufficient to plead an underlying Fourteenth Amendment violation. See Gant, 772 F.3d at 622.

16 Turning to the Fourth Amendment, County of Sacramento argues (1) “warrants are  
17 presumed valid”; (2) plaintiff fails to allege if anyone from County of Sacramento actually  
18 obtained the warrant; and (3) if the warrant were for a violation of probation or merely being  
19 executed, then “perhaps these are state actions for which Eleventh Amendment immunity may  
20 apply.” (ECF No. 6-1 at 4.)

21 Reviewing the arguments in reverse order, defendant’s Eleventh Amendment immunity  
22 argument is expressed as a conditional possibility. Such an argument fails to meet defendant’s  
23 burden to demonstrate the claim should be dismissed based on Eleventh Amendment immunity.

24 In addition, liberally construing the pro se pleading as the court must, plaintiff alleges  
25 County of Sacramento and its purported divisions, departments, or officials were responsible for  
26 issuing an invalid arrest warrant which caused a Fourth Amendment violation upon arrest. To the  
27 extent County of Sacramento argues the claim should be dismissed because plaintiff fails to  
28 allege a County employee actually obtained the warrant, the court rejects the argument.

1 Finally, in support of the assertion that plaintiff does not state an alleged Fourth  
2 Amendment violation because warrants are presumed valid, County of Sacramento cites Franks v.  
3 Delaware, 438 U.S. 154, 171 (1978) (“There is, of course, a presumption of validity with respect  
4 to the affidavit supporting the search warrant.”). Franks does not itself support a conclusion that  
5 plaintiff fails to allege a Fourth Amendment violation in this case and defendants provide no  
6 further elaboration on this argument.

7 For all these reasons, County of Sacramento fails to meet its burden to show plaintiff’s  
8 Monell claim asserting a violation of his Fourth Amendment rights fails as a matter of law. The  
9 motion to dismiss should be denied on this point.

### 10 **B. State Law Immunities**

11 County of Sacramento argues it is immune from liability on plaintiff’s negligence claim  
12 pursuant to Government Code § 815, which abolished common law or judicially declared forms  
13 of liability and established that all public entity tort liability is statutory. (ECF No. 6-1 at 6.)  
14 Liberally construing the complaint, the SAC’s caption makes clear that plaintiff brings his claim  
15 under Government Code § 815.2. (ECF No. 2 at 30.) That section provides as follows:

16 (a) A public entity is liable for injury proximately caused by an act  
17 or omission of an employee of the public entity within the scope of  
18 his employment if the act or omission would, apart from this section,  
have given rise to a cause of action against that employee or his  
personal representative.

19 (b) Except as otherwise provided by statute, a public entity is not  
20 liable for an injury resulting from an act or omission of an employee  
of the public entity where the employee is immune from liability.

21 Cal. Gov’t Code § 815.2. Given the SAC’s explicit reliance on Government Code § 815.2,  
22 County of Sacramento fails to show it is entitled to immunity under Government Code § 815.

23 County of Sacramento also argues any of its employee would be immune based on  
24 Government Code § 821.6. (ECF No. 6-1 at 6-8.) That section provides as follows:

25 A public employee is not liable for injury caused by his instituting or  
26 prosecuting any judicial or administrative proceeding within the  
27 scope of his employment, even if he acts maliciously and without  
probable cause.

28 Cal. Gov’t Code § 821.6.

1 Section 821.6 protects public employees from liability only for malicious prosecution and  
2 not for false imprisonment. Sullivan v. Cnty. of Los Angeles, 12 Cal. 3d 710, 719 (1974).  
3 “Malicious prosecution ‘consists of initiating or procuring the arrest and prosecution of another  
4 under *lawful process*, but *from malicious motives* and *without probable cause*[.]’ The test is  
5 whether the defendant was actively instrumental in causing the prosecution.” Id. at 720 (emphasis  
6 in original) (cleaned up). “Although it is sometimes difficult to distinguish between the torts of  
7 false arrest and malicious prosecution, the critical difference is whether there is valid legal  
8 authority for the arrest.” Martinez v. City of Los Angeles, 141 F.3d 1373, 1380 (9th Cir. 1998);  
9 see also Asgari v. City of Los Angeles, 15 Cal. 4th 744, 757 (1997), as modified on denial of  
10 reh’g (Mar. 17, 1997) (“False arrest or imprisonment and malicious prosecution are mutually  
11 inconsistent concepts, the former relating to conduct that is without valid legal authority and the  
12 latter to conduct where there is valid process or due authority.”).

13 County of Sacramento argues the alleged invalid obtaining of an arrest warrant and  
14 subsequent detention is considered malicious prosecution. (ECF No. 6-1 at 7.) However, the case  
15 cited as support is distinguishable. In Scannell v. Cnty. of Riverside, 152 Cal. App. 3d 596, 608  
16 (Ct. App. 1984), the plaintiff alleged “criminal proceedings against him were instituted with the  
17 full knowledge of all defendants that he had previously been granted immunity from prosecution  
18 for the charged offenses.” Id. at 607. The state court of appeal found the plaintiff had alleged  
19 malicious prosecution, not false imprisonment, because he alleged that only the arrest warrant  
20 was invalid and did not allege the arrest itself or subsequent detention was invalid. Id. at 608. In  
21 this case, in contrast, plaintiff alleges the warrant, his arrest, and subsequent detention were  
22 legally unauthorized.

23 County of Sacramento also notes courts have found a claim based on “negligent  
24 investigation which leads to an arrest” to sound in malicious prosecution. (ECF No. 6-1 at 7.)  
25 Such a situation also involves valid legal authority for the arrest, which is not the case here.  
26 Under the allegations in the SAC, the arrest was not procured under lawful process, and there was  
27 no legal authority to arrest or detain plaintiff. County of Sacramento does not meet the burden to  
28 show plaintiff’s negligence claim should be dismissed based on the state law immunities asserted.

1           **IV.     ACSD’s Unopposed Motion (ECF No. 7)**

2           Alameda County Sheriff’s Department (“ACSD”) asserts the following arguments: (1)  
3   ACSD was not properly substituted in as a Doe defendant; (2) plaintiff’s claims are time-barred  
4   due to lack of relation back; (3) there is no vicarious liability under Section 1983; (4) any and all  
5   state-law claims are barred by non-compliance with the California Government Claims Act; (5)  
6   any and all state-law claims against ACSD are barred by Cal. Gov’t Code § 815, and (6) the  
7   complaint fails to state a claim for Unlawful/False Arrest under the Fourth Amendment, Due  
8   Process under the Fourth Amendment [sic], and punitive damages. (ECF No. 7 at 2.) Plaintiff has  
9   not opposed the motion by ACSD.

10          As set forth above, by order filed on April 23, 2025, the court informed plaintiff his failure  
11   to timely file an opposition or statement of non-opposition to the two pending motions to dismiss  
12   violated Local Rule 230(c) and granted plaintiff 21 days to file written oppositions. (ECF No. 12  
13   at 2.) The court specifically warned plaintiff “Failure to do so will be deemed a statement of non-  
14   opposition and consent to the granting of the motions....” (*Id.*) Plaintiff opposed County of  
15   Sacramento’s motion to dismiss but did not oppose ACSD’s motion to dismiss.

16          “District courts have inherent power to control their dockets” and, in exercising that  
17   power, may impose sanctions, including dismissal of a claim or action. Thompson v. Housing  
18   Auth., City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). In determining whether to dismiss  
19   an action, the court considers several factors: (1) the public’s interest in expeditious resolution of  
20   litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4)  
21   the public policy favoring disposition of cases on their merits; and (5) the availability of less  
22   drastic sanctions. Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988).

23          The court has considered the factors set forth above and finds they favor dismissal of  
24   plaintiff’s claims against ACSD under Rule 41(b) of the Federal Rules of Civil Procedure at this  
25   time. Following the court’s specific warning, plaintiff’s failure to oppose the motion to dismiss  
26   constitutes plaintiff’s consent to dismissal of his claims against ACSD. Moreover, his failure to  
27   comply with the court’s order and applicable rules as to the motion by ACSD indicates he has  
28   abandoned his claims against ACSD.



**IV. Recommendation**

For the reasons set forth above, IT IS RECOMMENDED as follows:

1. The motion to dismiss by County of Sacramento (ECF No. 6) be denied.
2. Plaintiff's alternate request for leave to amend the claim under 42 U.S.C. § 1983 against County of Sacramento (ECF No. 13) be denied as unnecessary.
3. Plaintiff's claims against Alameda County Sheriff's Department be dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for plaintiff's failure to prosecute and failure to comply with applicable rules and a court order.
4. The motion to dismiss by Alameda County Sheriff's Department (ECF No. 7) be denied as moot.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be served on all parties and filed with the court within seven (7) days after service of the objections. Failure to file objections within the specified time may waive the right to appeal the District court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

Dated: November 5, 2025

  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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